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SUPPLEMENT NO. 3 TO THE  
MULTIFUNCTIONAL INFORMATION DISTRIBUTION SYSTEM  
PROGRAM MEMORANDUM OF UNDERSTANDING  
AMONG  
THE MINISTER OF DEFENCE OF THE FRENCH REPUBLIC  
AND  
THE FEDERAL MINISTRY OF DEFENCE OF THE FEDERAL REPUBLIC  
OF GERMANY  
AND  
THE MINISTRY OF DEFENCE OF THE ITALIAN REPUBLIC  
AND  
THE MINISTER OF DEFENCE OF THE KINGDOM OF SPAIN  
AND  
THE SECRETARY OF DEFENSE OF THE UNITED STATES OF AMERICA  
CONCERNING THE PRODUCTION AND LOGISTICS SUPPORT OF THE  
MULTIFUNCTIONAL INFORMATION DISTRIBUTION SYSTEM  
(MIDS PRODUCTION PHASE)

Certified to be a true copy

  
Fred Beer, Navy IPO-01C  
Director, International Agreements

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## INTRODUCTION

The Minister of Defence of the French Republic, the Federal Ministry of Defence of the Federal Republic of Germany, the Ministry of Defence of the Italian Republic, the Minister of Defence of the Kingdom of Spain, and the Secretary of Defense of the United States of America, hereinafter referred to as the "Participants":

Having a common interest in defense;

Recognizing the benefits to be obtained from standardization, rationalization, and interoperability of military equipment;

Desiring to improve their mutual conventional defense capabilities through the application of emerging technology;

Having a mutual need for the Multifunctional Information Distribution System (MIDS) - Low Volume Terminal (MIDS-LVT) to satisfy common operational requirements;

Having concluded the Program Memorandum of Understanding Concerning General Arrangements for the Collaborative Program on a Multifunctional Information Distribution System of 4 October 1991 (PMOU) which established the general principles for all Phases of the Program;

Having successfully completed Supplement 1 to the PMOU concerning the Preliminary Full Scale Development Phase of the Program dated 4 October 1991 and having reviewed the work successfully accomplished to date under Supplement 2 to the PMOU concerning Engineering and Manufacturing Development (EMD) Phase of the Program, dated 17 February 1994;

Recognizing the MIDS-LVT, as developed during the EMD phase, as the reference for interoperability in supporting the requirements defined in the MIDS Military Operational Requirement;

Recognizing their intention to concentrate their efforts on a competitive cooperative production program and to consult with other Participants before initiating or funding an acquisition program which might offer similar capabilities to the MIDS-LVT, and to offer the opportunity to conduct any such program on a cooperative basis; and

Recognizing the intention to produce MIDS-LVT configurations so as to maximize commonality of hardware and software tailored to the specific needs of each user;

Have reached the following understandings:

## SECTION 1

### DEFINITIONS

- 1.1. The Participants have agreed upon the following additional definitions for terms used in this MIDS Production Phase Supplement:

Contracting Agency	The entity within the government organization of a Participant, which has authority to enter into, administer, or terminate contracts.
Contracting Officer	A person representing a Contracting Agency of a Participant who has the authority to enter into, administer, or terminate contracts.
MIDS-LVT Equipment	Program equipment, including hardware and software, that is produced or supported through contracts managed by the MIDS International Program Office. MIDS-LVT Equipment may be an end item, a system, a component, special tooling or test equipment. MIDS-LVT Equipment includes MIDS-LVT Variants.
MIDS-LVT Variant	A MIDS-LVT Variant is a terminal which incorporates hardware or software developed through MIDS-LVT common or national funding and which is intended to meet a requirement defined by the MIDS Military Operational Requirement.
Patent	Legal protection of the right to exclude others from making, using, or selling an invention. The term refers to any and all patents as defined by national laws or regulations.
Production Phase Financial Procedures Document (FPD)	The document, approved by the Steering Committee, that establishes the procedures for the collection, disbursement, accounting, and reporting of program funds, including program budgeting, deposit schedules, requests for deposits, banking arrangements, and the accounting and reporting of program funds, obligations, and expenditures.
Program Invention	Any invention or discovery formulated or made (conceived or first actually reduced to practice) in the course of work performed under this Program. The term first actually reduced to practice means the first demonstration, sufficient to establish to one skilled in the art to which the invention pertains, of the operability of an invention for its intended purpose and in its intended environment.
Third Party	Any person or other entity whose governing authority is not a Participant in this Supplement.

## SECTION 2

### OBJECTIVES AND SCOPE OF WORK

2.1. The PMOU established the general principles to be applied throughout all collaborative Phases of the Program. These will apply in the MIDS-LVT Production Phase (hereinafter referred to as "the MIDS Production Phase"), which is the third Phase of the Program. This Supplement No. 3 to the PMOU further sets out the particular and additional principles and arrangements that apply during the MIDS Production Phase. All the PMOU provisions will remain valid for the Production Phase, except where Supplement 3 includes provisions that are in direct conflict with a provision of the PMOU.

2.2. It is the intent of the Participants to have at least two production lines, one in Europe and one in the United States.

2.3. It is the intent of the Participants to verify and demonstrate the interoperability of MIDS-LVT Equipment at the terminal level in accordance with a common reference for interoperability. Verification will be accomplished using a common test plan and facilities of the Participants in the U.S. or Europe. Verification efforts managed by the IPO will be valid irrespective of the location of the facility, or facilities, used for the verification.

2.4. It is the intent of the Participants to maintain the interoperability of the MIDS-LVT equipment at the terminal level and to reduce the costs and associated risks on the life cycle support of the MIDS software. To achieve these objectives, a single, common software support activity (SSA) organization will be set up to provide each Participant the access to the MIDS software required for production and support of the MIDS-LVT Equipment. The industries of the Participants will work together to jointly support the SSA as determined by the SC.

2.5. The objective of the MIDS Production Phase is to manufacture, test, deliver, and support MIDS-LVT Equipment and ancillary equipment, including MIDS-LVT Variants such as the Fighter Data Link (FDL).

2.6. The following activities are within the scope of this Supplement:

- 2.6.1. Solicitation of contractor proposals, award and management of contracts related to the manufacture, test, delivery, and support of MIDS-LVT Equipment, ancillary equipment, and software that comply with Program specifications and documentation.
- 2.6.2. Qualification of manufacturers of MIDS-LVT Equipment.
- 2.6.3. Coordination of activities approved by the SC to assure the interoperability of MIDS-LVT Equipment and other Link-16 equipment among the Participants.
- 2.6.4. Configuration management of MIDS-LVT Equipment, software and documentation, including engineering changes.

- 2.6.5 Incorporation of improvements to MIDS-LVT Equipment, ancillary equipment, and software, including improvements for producability, enhanced operational capabilities, and advances in technology.
- 2.6.6 Logistics and life cycle support (including extended warranty concepts) of MIDS-LVT Equipment, ancillary equipment, and software, as approved by the SC.
- 2.6.7 Pursuit of technology improvements, either cooperatively or nationally, which could be of benefit to the MIDS-LVT Production Phase, such as the development of new technologies that could continuously reduce production costs, or expansion of MIDS/Link 16 capabilities.

## SECTION 3

### MANAGEMENT, ORGANIZATION AND RESPONSIBILITY

3.1. This MIDS Production Phase, in accordance with Section 4 (Program Organization and Management Structure) of the PMOU, will be directed and administered on behalf of the Participants by an organization consisting of a Steering Committee (SC), and an International Program Office (IPO) headed by a Program Manager (PM).

3.2. For the MIDS Production Phase, the United States Participant is designated to serve as Host Nation on behalf of the Participants. The Host Nation will designate an Executive Agent to lead the execution of its duties as the Host Nation. The Program Executive Officer, Tactical Aircraft Programs (PEO(T)) (or his successor in the event of re-organization), U.S. Department of the Navy, is that agent.

3.3. The IPO will be located in the Host Nation. The organizational concept of the IPO is outlined in Annex A. Further details will be included in the Program Management Plan (PMP). Operating procedures between the IPO and PEO(T) will be set forth in the PMP. The conformity of the activities of the IPO with U.S. acquisition laws and regulations will be secured through the Contracting Officer and the PEO(T) when such conformity is needed for the purposes of this Supplement.

3.4. The IPO, in addition to the duties and responsibilities set forth in PMOU Section 4, will be specifically responsible, under the guidance and supervision of the SC, for the following activities:

3.4.1. *Configuration management, control, and status accounting.* All proposed configuration changes will be coordinated within the IPO. A single configuration management system will be maintained in accordance with current practices of the U.S. Participant regarding configuration control, status accounting, engineering changes, deviations, and waivers.

3.4.2. Defining and managing a process to ensure interchangeability and interoperability of MIDS-LVT Equipment. The process will use the test and demonstration facilities of the Participants in the U.S. or Europe.

3.4.3. Defining and managing a process to qualify manufacturers.

3.4.4. Defining and managing the software maintenance approach to support production contracts.

3.5. Participants will each contribute at least two persons to the IPO, in support of the MIDS Production Phase as delineated in Section 2 (Objectives and Scope of Work), fully qualified for their designated tasks, including acquisition management, as delineated in the PMP. Assignment to the IPO will be made by mutual agreement of the PM and the providing Participant.

3.6. Participants may provide additional staffing in accordance with the PMP.

3.7. The IPO, upon approval of the SC, may acquire additional administrative and technical support. The cost of such support will be treated as a Production Phase common cost subject to the provisions of paragraph 4.3.1. of this Supplement.

3.8. The working language for the MIDS Production Phase will be the language of the Host Nation and all data and reports will be submitted in that language. However, working discussions may be conducted in any mutually acceptable language.

## SECTION 4

### FINANCIAL PROVISIONS

4.1. Each Participant will contribute to the MIDS Production Phase its equitable share of the full cost, including overhead and administrative costs and the costs of claims, of the MIDS Production Phase and will receive an equitable share of the results of the MIDS Production Phase to include workshare.

4.2. Participants will fund the costs of the MIDS Production Phase as delineated in paragraphs 4.3. and 4.4. of this Supplement. The U.S. dollar will be the reference currency. All cost figures will be referenced for planning and budgeting purposes in base year 1998 U.S. dollars. The fiscal year will be the calendar year.

4.3. Production Phase common costs are as follows:

#### 4.3.1. Category I.

4.3.1.1. This category consists of the costs for configuration management, administrative support, interoperability efforts, IPO support of the SC, contractor support, and other IPO expenses approved by the SC.

4.3.1.2. Category I costs will be shared by the Participants on an equal basis.

4.3.1.3. The estimated annual amount for this category is \$3 million. This amount may be exceeded only with the consent of the SC in accordance with any national approvals required by the Participants.

#### 4.3.2. Category II.

4.3.2.1. This category consists of the costs for common engineering studies and technical support.

4.3.2.2. Category II costs will be shared in accordance with the cost shares listed below:

French Participant	26.5 %
German Participant	7.5 %
Italian Participant	18 %
Spanish Participant	7 %
U.S. Participant	41 %

4.3.2.3. The estimated annual amount for this category is \$3.8 million. This amount may be exceeded only with the consent of the SC in accordance with any national approvals required by the Participants.

4.3.3. Category III.

4.3.3.1. This category consists of costs for acquisition and maintenance of common program documentation.

4.3.3.2. Category III costs will be shared in proportion to each Participant's production quantities. Estimated production quantities are reflected in Annex B (Estimated MIDS-LVT Production Requirements). The Category III cost shares will be adjusted periodically by the SC to take into account terminals produced and any significant changes to estimated production quantities.

4.3.3.3. The estimated annual amount for this category is \$1.53 million. This amount may be exceeded only by the consent of the SC in accordance with any national approvals required by the Participants.

4.3.4. The total ceiling for all Production Phase common costs under Categories I through III is \$75 million. This ceiling may only be increased upon prior written approval of the Participants.

4.3.5. Category IV.

4.3.5.1. This category consists of common core and tailored software support activity costs for set up, maintenance and core high order language redesign.

4.3.5.2. Category IV costs will be shared in accordance with the cost shares listed below:

French Participant	26.5	%
German Participant	7.5	%
Italian Participant	18	%
Spanish Participant	7	%
U.S. Participant	41	%

4.3.5.3. The estimated amount for a high order language redesign of the core software is \$23 million. The estimated annual amount for software maintenance is \$4 million. These amounts may be exceeded only with the consent of the SC in accordance with any national approvals required by the Participants. The total ceiling for all Production Phase common costs under Category IV is \$60 million. This ceiling may only be increased upon prior written approval of the Participants.

4.4. Non-recurring cost for initial contracts:

- 4.4.1. The U.S. Participant will bear the production non-recurring costs for the initial contract(s) with the American-led contractors that are described in paragraph 5.4.
- 4.4.2. The European Participants will bear the industrialization and production non-recurring costs to set up the European line through the initial contract with the European-led contractor that is described in paragraph 5.5. The ceiling for these costs is 41 million EUROS; this amount will be shared as follows: 41%, the French Participant; 13%, the German Participant; 31% the Italian Participant; and 15%, the Spanish Participant. In case of significant imbalance occurring over the lifetime of the production line, between these percentages and the percentages of the actual procured quantities by the European Participants, corrective action will be considered by the SC.

4.5. Production Phase national costs will be borne by the Participant(s) incurring them or on whose behalf they are incurred. Production Phase national costs are the costs associated with the production and support of each Participant's MIDS-LVT Equipment, as more fully set forth below:

- 4.5.1. National IPO staffing;
- 4.5.2. Costs associated with national requirements (e.g. MIDS-LVT Equipment contracts and termination costs, platform integration and software, testing and test facilities, field engineering support services, depot repair of accepted equipment);
- 4.5.3. All costs resulting from unique national engineering changes, modifications or product improvements. Costs of maintaining unique national configurations or items for a Participant will be separately funded by that Participant;
- 4.5.4. Costs associated with ensuring line replaceable unit (LRU) and shop replaceable unit (SRU) level compatibility and interchangeability (assuming parts obsolescence and technology upgrades) will be charged to the applicable Participant(s) by the IPO and funded accordingly;
- 4.5.5. Costs associated with incorporation of improvements to MIDS-LVT Equipment, including improvements for producability, enhanced operational capabilities, and advances in technology will be charged to the applicable Participant(s) by the IPO and funded accordingly;
- 4.5.6. Costs associated with logistics and life cycle support of the MIDS-LVT Equipment, and ancillary equipment will be charged to the applicable Participant(s) by the IPO and funded accordingly;
- 4.5.7. The costs associated with the establishment and operation of the facilities referenced in paragraph 2.3. of Section 2 (Objectives and Scope of Work). The estimated total operating cost of the European facility is 4.1 million EUROS, to be shared equally by the European Participants.

4.6. Procedures for collecting, disbursing, accounting and reporting of MIDS Production Phase funds will be in accordance with the Production Phase Financial Procedures Document developed by the IPO and approved by the SC. The proper documents will be provided to the Participants to support payment requests.

4.7. Funding will be provided by each Participant in accordance with SC-approved budgets and deposit schedules. Any Participant causing a delay in funding that results in additional costs to the other Participants will be solely responsible for these additional costs.

4.8. A Participant will promptly notify the other Participants if its available funds are inadequate to fulfill its responsibilities under this Supplement. If a Participant notifies the other Participants that it is terminating or reducing its funding for the MIDS Production Phase, all Participants will immediately consult with a view toward continuation on a modified basis.

4.9. The Participants recognize that in contracting for the procurement requests authorized and submitted by the Participants in accordance with the Buying Process Document referenced in paragraph 5.6 of Section 5 (Contractual Arrangements), it may become necessary for the U.S. Participant to incur contractual or other obligations for the benefit of the other Participants prior to the receipt of the other Participants' funds. In the event that the U.S. Participant incurs such obligations, the other Participants will make such funds available in such amounts and at such times as may be required by the contract or other obligation and will pay any damages and costs that may accrue from the performance of or cancellation of the contract or other obligation in advance of the time such payments, damages, or costs are due.

4.10. In order to reduce the expense of currency exchange, contracts awarded to the European contractor in accordance with paragraphs 5.2 and 5.4 may be priced in a European currency.

## SECTION 5

### CONTRACTUAL ARRANGEMENTS

5.1. The Host Nation (acting through the Department of the Navy) will be responsible for contracting for all of the requirements of the Participants for the MIDS Production Phase. However, upon prior written notification to the other Participants that an emergency need for MIDS-LVT Equipment exists which the notifying Participant determines cannot be satisfied by any means available to the IPO, the notifying Participant may procure the required items through its own national procedures.

5.2. In accordance with paragraph 2.5. of the PMOU, recognizing the value of cooperation and competition in production, it is the intent of the Participants to pursue competitive cooperative production. To this end, except as provided in paragraph 5.1., 5.3. and 5.4., all of the Participants' MIDS-LVT production requirements will be consolidated, and production orders will be competed among American-led and European-led contractors to fulfill all of the Participants' requirements. The following principles will apply to this contracting strategy, the details of which will be delineated in the Buying Process Document referenced in paragraph 5.6.:

- 5.2.1. Each production order will be placed on the basis of best value, after evaluating factors such as price, performance (including reliability), and schedule.
- 5.2.2. All of the Participants will participate in formulating source selection criteria for the competition of production orders and in the process for selecting the best value offers for the production quantities.
- 5.2.3. Each contractor will receive a sustaining order quantity, in order to allow efficient production while preserving a significant quantity of requirements available for competition. The price of the sustaining order will be linked to the price of the best offer.

5.3. The SC may approve, by amendment to the Buying Process Document referenced in paragraph 5.6., exceptions to the contracting strategy in paragraph 5.2. on a case-by-case basis if necessary to fulfill the objectives of this Supplement, including meeting the requirements of each Participant for MIDS-LVT equipment.

5.4. In order to establish the capability to produce MIDS terminals in the U.S. and in Europe, the Host Nation will award contracts for production start-up, qualification testing, and initial production quantities. At least one initial contract will be awarded to American-led contractors, and a directed sole source contract will be awarded to a European-led contractor. After successful qualification of the contractors, the contracting strategy in paragraph 5.2. will be implemented.

5.5. The contract to the European-led contractor for production start-up, qualification, and initial production quantities, as described in paragraph 5.4., will be in accordance with the following:

5.5.1. The French, German, Italian and Spanish Participants may designate their industrial representative to the European-led contractor. It will be determined by the contractor which component industry does assembly and integration.

5.5.2. It is the desire of the Participants that as among their industrial representatives, the sharing of the work awarded to the European-led contractor will be based upon:

- the minimization of costs;
- the balancing of work share with cost share; and
- the balancing of technologies within the European industries.

5.6. The IPO will prepare and submit to the SC, in a timely manner, for its written approval a Buying Process Document, and any amendments thereto, which will detail the contracting plan for this Supplement. This document will include the contracting strategies, procedures for the submission of Participants' procurement requests, source selection procedures, security requirements, and contract technical specifications. These procedures will seek to maximize the flexibility of procurement.

5.7. In order to ensure timely delivery of MIDS-LVT Equipment to all Participants, each Participant will promptly submit their procurement requirements upon request by the IPO.

5.8. In accordance with paragraph 5.1. of the PMOU, the Host Nation will use its best efforts to seek waivers of its national regulations, procurement procedures, and practices on a case-by-case basis for any MIDS Production Phase contract awarded to a European-led contractor by a U.S. Contracting Officer in order to satisfy the objectives of this Supplement.

5.9. The IPO will be responsible for the coordination of activities relating to the MIDS Production Phase, and will cooperate with the Contracting Officer in the areas of contract procedures, contract negotiation, evaluation of offers, and contract award. The Contracting Officer is the exclusive authority for providing contractual direction and instructions to contractors.

5.10. The Host Nation will take every action to place on contract the Participants' requirements in the minimum possible time and will provide the Participants with the anticipated contracting schedules. Should it become necessary to give a priority to various purchasing orders, then the following priority will apply, unless otherwise established by the SC:

- MIDS-LVT requirements for Defense Purposes of the Participants,
- Third Party sales.

5.11. The Contracting Officer will insert into prospective contracts (and require contractors to insert in subcontracts) suitable provisions to satisfy the requirements of the PMOU and this Supplement, including Section 6 (Third Party Sales and Transfers). During the contracting process, the Contracting Officer will advise prospective contractors of their responsibility to immediately notify the Contracting Agency, before contract award, if they are subject to any license or agreement that will restrict their freedom to disclose information or permit its use. The Contracting Officer will also advise prospective contractors to employ their best efforts not to enter into any new agreement or arrangement that will result in such restrictions.

5.12. The Contracting Officer will keep the IPO advised of all financial arrangements with the prime contractors. In addition, the Contracting Officer will immediately advise the PM of any cost growth, schedule change, or performance problems of any contract for which the Contracting Officer is responsible.

5.13. Except as otherwise determined by the SC, MIDS Production Phase contracts will require compatibility and interchangeability at the Line Replaceable Unit (LRU) and Shop Replaceable Unit (SRU) levels, and will utilize common MIDS-LVT software.

5.14. Each national audit service will be informed about the acceptance of the work performed by them on behalf of the Host Nation.

5.15. The reports to be submitted by the different national audit agencies or services to the Host Nation audit agency will be in the language of the Host Nation unless otherwise provided under a reciprocal procurement agreement between the U.S. Participant and the Participant submitting the report.